

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**RAYNE S. FEDDER,**

**Plaintiff,**

**v.**

**Civil Action 2:23-cv-627  
Judge Sarah D. Morrison  
Magistrate Judge Chelsey M. Vascura**

**OHIO MEDICAL TRANSPORTATION,  
INC.,**

**Defendant.**

**ORDER and REPORT AND RECOMMENDATION**

This matter is before the Court on Plaintiff's Amended Complaint (ECF No. 15). Plaintiff's Amended Complaint supersedes and replaces her original Complaint (ECF No. 5). *See Parry v. Mohawk Motors of Michigan, Inc.*, 236 F.3d 299, 306 (6th Cir. 2000). Accordingly, Defendant's Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(7) (ECF No. 7) is **DENIED AS MOOT**. Defendant remains free to renew its Rule 12(b)(7) arguments in response to Plaintiff's Amended Complaint.

Additionally, in light of Plaintiff's Amended Complaint, the undersigned **VACATES** the May 12, 2023 Report and Recommendation and screens Plaintiff's Amended Complaint as required by 28 U.S.C. § 1915(e)(2) to identify cognizable claims and to recommend dismissal of Plaintiff's Amended Complaint, or any portion of it, which is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). The undersigned finds that the Amended Complaint does not substantively modify any of the factual allegations relevant to the

undersigned's previous screen of the original Complaint. Accordingly, for the reasons set forth in the May 12, 2023 Report and Recommendation, which the undersigned incorporates by reference, Plaintiff **MAY PROCEED** on her "regarded-as" disability discrimination claim under the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.* (the "ADA"), and the undersigned **RECOMMENDS** that the Court **DISMISS** Plaintiff's remaining claims pursuant to § 1915(e)(2).

### **PROCEDURE ON OBJECTIONS**

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A District Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a District Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

**IT IS SO ORDERED.**

/s/ Chelsey M. Vascura  
CHELSEY M. VASCURA  
UNITED STATES MAGISTRATE JUDGE